

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.2630 of 2017

and

CMP.No.12550 of 2017

1. S.Palaniyammal
2. S.Manokaran
3. S.Malligrajunan

..Petitioners

Vs.

1. M.Venkatesan
2. M.Nagarajan

3. The State of Tamil Nadu,
Represented by Erode District Collector,
Erode District Collectorate,
Erode – 638 001,
Erode District.

4. The Tahsildar,
Anthiyur Taluk Office,
Anthiyur and Post,
Anthiyur Taluk, Erode District.

5. The Taluk Surveyor,
Survey Department,
Anthiyur Taluk Office,
Anthiyur Taluk, Erode District.

(Respondents 3-6 are given up in the CRP)

..Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 27.06.2017 passed by the Principal District Munsif, Bhavani, I Additional District Munsif, Bhavani, Principal District Munsif (FAC), Bhavani, Erode District in I.A.No.248 of 2016 in O.S.No.298 of 2014.

For Petitioners : M/s.K.Vasanthamala for
: Mr.P.Dharmaraj

For Respondents : Mr.R.Suresh (for R1 and R2)
: Given up (for R3 to R5)

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.248 of 2016 in O.S.No.298 of 2014 dated 27.06.2017 on the file of the I Additional District Munsif, Bhavani, Principal District Munsif (FAC), Bhavani, Erode District thereby, allowing the petition to condone the delay in filing the application to restore the suit.

2. The petitioners are the defendants in the suit filed by the respondents 1 and 2 herein. The respondents 1 and 2 filed the said suit for declaration and permanent injunction, in respect of the suit properties. After

filing the written statement, the suit was posted for trial on 15.04.2015. The plaintiffs were unable to appear before the trial Court and get along with the trial. Since the first plaintiff was admitted at the hospital and he was in-patient for 10 days and that the first plaintiff alone is looking after the case and as such, the suit was dismissed for default on 15.04.2015. Only thereafter, the plaintiffs came to know about the dismissal of the suit for default. Hence, there was a delay of 294 days in filing the restoration petition.

3. The learned counsel for the petitioners submitted that the respondents failed to explain each and every day delay with sufficient cause. The Court below allowed the petition on condition that the respondents 1 and 2 shall pay a sum of Rs.1,000/- as costs to the petitioners herein. Accordingly, the respondents 1 and 2 also complied with the said condition. As such, this Court finds no irregularity or infirmity in the order passed by the Court below.

G.K.ILANTHIRAIYAN,J.

Kv

4. Accordingly, this Civil Revision Petition is dismissed. The trial Court is directed to dispose the suit within a period of nine months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed. No costs.

11.02.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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To

The I Additional District Munsif, Bhavani,
Principal District Munsif (FAC), Bhavani,
Erode District.

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